

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

COUNCIL DECISION

of 30 November 2009

on the signing, on behalf of the European Community, and provisional application of the Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013

(2010/374/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) According to Article 11 of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the general programme 'Solidarity and Management of Migration Flows' ⁽¹⁾ the third countries associated with the implementation, application and development of the Schengen *acquis* shall participate in the Fund in accordance with its provisions. Arrangements are to be concluded to specify supplementary rules necessary for such participation, including provisions ensuring the protection of the Community's financial interests and the power of audit of the Court of Auditors.

(2) Following the authorisation given to the Commission on 20 December 2007, negotiations with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein have been concluded and the Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 (hereinafter referred to as the Agreement) initialled on 30 June 2009.

(3) Subject to its conclusion at a later date, the Agreement should be signed and should be applied on a provisional basis.

(4) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of that Protocol, decide within a period of six months after the date of adoption of this Decision whether it will implement it in its national law.

(5) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽²⁾ and the subsequent Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen *acquis* by the United Kingdom of Great Britain and Northern Ireland ⁽³⁾. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(6) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application,

⁽¹⁾ OJ L 144, 6.6.2007, p. 22.

⁽²⁾ OJ L 131, 1.6.2000, p. 43.

⁽³⁾ OJ L 395, 31.12.2004, p. 70.

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 (hereinafter referred to as the Agreement) and the Declarations thereto are hereby approved on behalf of the Community, subject to the conclusion of the Agreement.

The text of the Agreement and the Declarations thereto are attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the European Community, subject to its conclusion.

Article 3

Pending the completion of the procedures for its formal conclusion, the Agreement shall be applied on a provisional basis in accordance with Article 13(5) thereof.

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK
